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Attorneys for Defendant and Counter Claimant Acacia Communications, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ViaSat, Inc.,

a Delaware corporation,

Plaintiff

and Counter Defendant,

v.

Acacia Communications, Inc.,

a Delaware corporation,

Defendant

and Counter Claimant.

Case No.: 3:16-cv-00463-BEN-JMA

**ACACIA COMMUNICATIONS,
INC.'S AMENDED PRETRIAL
DISCLOSURES UNDER FED. R.
CIV. P. 26(a)(3)**

Judge: Hon. Roger T. Benitez

Mag. Judge: Hon. Jan M. Adler

Under Federal Rule of Civil Procedure 26(a)(3) and the Court's Scheduling Order (Dkt No. 168), Defendant and Counter Claimant Acacia Communications, Inc. ("Acacia") provides the following pretrial disclosures.

In view of the Court's anticipated rulings on the parties' pending motions for summary judgment and other motions, and in view of the currently set Final Pretrial Conference date of August 6, 2018, Acacia respectfully requests leave to (and reserves the right to) serve and promptly file amended disclosures 30 days before trial. *See* Fed. R. Civ. P. 26(a)(3)(B). Acacia serves and files the present disclosures in compliance with the Court's current scheduling order (Dkt No. 168), although Acacia has requested that the Court continue the upcoming Final Pretrial Conference and related deadlines until after resolution of the parties' pending motions.

I. FED. R. CIV. P. 26(a)(3)(A)(i) – IDENTIFICATION OF WITNESSES, OTHER THAN SOLELY FOR IMPEACHMENT

Acacia expects to present the following witnesses at trial:

<u>Name</u>	<u>Address and Telephone Number</u>
Bhupendra Shah	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Gary Martin	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Christian Rasmussen	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Brent Bersin	Duff & Phelps, LLC, Heritage Plaza 1111 Bagby St., Houston, TX 77002, Tel: (713) 237 5331
Alexander Vardy	University of California San Diego, 9500 Gilman Drive, La Jolla, CA 92093-0407, Tel: (619) 997-1715
Richard Koralek	35 Bayview Street, Belfast, Maine, 04915-6708, Tel: (207) 930-3552
Paul Prucnal	Department of Electrical Engineering, Princeton University, Princeton, NJ 08544, Tel: (609) 258-5549

Acacia may call the following witnesses if the need arises:

<u>Name</u>	<u>Address and Telephone Number</u>
Mehmet Aydinlik	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Pierre Humblet	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Benny Mikkelsen	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Peter Monsen	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Lawrence Pellach	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Graeme Pendock	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896
Murugesan Shanmugaraj	Acacia Communications, Inc., 3 Mill and Main Place, Suite 400, Maynard, MA 01754, Tel: (978) 938-4896

Acacia may also call the following witnesses if the need arises:

- Any witness listed by Plaintiff and Counter Defendant ViaSat, Inc. (“ViaSat”) on its May 7, 2018 Rule 26(a)(3) Disclosures, or any subsequent disclosure of anticipated or potential witnesses from ViaSat.
- Any witness called by ViaSat.
- Any witness necessary to rebut or impeach any witness offered in this matter.
- Any witness endorsed by ViaSat for purposes of impeachment or cross-examination.
- Any witness necessary to lay foundation for or authenticate any exhibits.

II. FED. R. CIV. P. 26(a)(3)(A)(ii) – TESTIMONY ACACIA EXPECTS TO PRESENT BY DEPOSITION, OTHER THAN SOLELY FOR IMPEACHMENT

Attached as Exhibit A is the designation of those witnesses whose testimony Acacia expects to present by deposition, all of which were taken stenographically.

1 **III. FED. R. CIV. P. 26(a)(3)(A)(iii) – IDENTIFICATION**
 2 **OF DOCUMENTS AND EXHIBITS, OTHER THAN**
 3 **SOLELY FOR IMPEACHMENT**

4 Attached as Exhibit B is an identification of each document or other exhibit,
 5 including summaries of other evidence, that Acacia expects to offer at trial and that
 6 Acacia may offer at trial if the need arises. Acacia also may offer at trial if the need
 7 arises any exhibit listed in ViaSat's May 7, 2018 Rule 26(a)(3)(A)(iii) Disclosures, any
 8 exhibit listed in any subsequent disclosure of exhibits from ViaSat, and any exhibit
 9 offered by ViaSat at trial. Acacia also may offer at trial if the need arises demonstrative
 10 exhibits with any witness it calls or cross-examines and for its opening and closing
 11 statements.

12 **IV. NO MEMORANDA OF CONTENTIONS**
 13 **OF FACT OR LAW REQUIRED**

14 The Court has indicated that in jury trial cases such as this one, Memoranda of
 15 Contentions of Fact and Law are neither requested nor required. The Scheduling
 16 Order Regulating Discovery and Other Pre-Trial Proceedings states that "[i]n jury trial
 17 cases before the Honorable Roger T. Benitez, neither party, unless otherwise ordered
 18 by the Court, is required to file Memoranda of Contentions of Fact and Law pursuant
 19 to Civil Local Rule 16.1(f)(2)." For that reason, Acacia does not file such a
 20 Memorandum today.

21 Date: July 9, 2018

Respectfully Submitted,

22 WOLF, GREENFIELD & SACKS, P.C.

23 By: s/Michael A. Albert

24 Michael A. Albert

25 Hunter D. Keeton

Stuart V. C. Duncan Smith

26 Attorneys for Defendant and Counter
 27 Claimant Acacia Communications, Inc.

CERTIFICATE OF SERVICE

I certify that today I am causing to be served the foregoing document by CM/ECF notice of electronic filing upon the parties and counsel registered as CM/ECF Users. I further certify that, to the extent they are not registered CM/ECF Users, I am causing the foregoing document to be served by electronic means via email upon counsel for ViaSat, Inc., per the agreement of counsel.

Date: July 9, 2018

s/Michael A. Albert

Michael A. Albert